

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 EURE-00 SAM-01 TRSE-00 EB-07 PM-04

NSC-05 SP-02 SS-15 L-03 INRE-00 CIAE-00 INR-07

NSAE-00 USIE-00 OMB-01 PRS-01 PA-01 ITC-01 COME-00

STR-04 CIEP-01 SSO-00 NSCE-00 /066 W

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TO SECSTATE WASHDC IMMEDIATE 5793

SECDEF IMMEDIATE

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INFO JUSMG-MAAG

16TH AF/JAG

CDR MTMCTTV CADIZ

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SECDEF FOR ISA BARRINGER

PASS TREASURY FOR RUSSELL MUNK

E.O.11652: N/A

TAGS: MARR, MILI, SP

SUBJECT: G-3 TARIFF

1. INTERAGENCY COMMITTEE ON FOREIGN TAX RELIEF MET WITH SPANISH DELEGATION HEADED BY FORMIN DIRECTOR GENERAL FOR NORTH AMERICAN AND PACIFIC AFFAIRS DURAN-LORIGA, ON 18 AND 19 MAY CONCERNING G-3 DISPUTE.

2. US SIDE REITERATED ITS PREVIOUSLY STATED LEGAL POSITION THAT G-3 CHARGE IS TAX FROM WHICH USG WAS GRANTED EXEMPTION UNDER 1953 TAX RELIEF AGREEMENT. NOTWITHSTANDING THE VALIDITY OF ITS LEGAL POSITION, TEAM INDICATED THAT USG WOULD BE WILLING TO PAY REASONABLE COMPENSATION FOR SERVICES RECEIVED

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IN FORM OF USE OF PORT FACILITIES, AS A MEANS OF PROMPT SETTLEMENT OF THIS PROTRACTED DISPUTE. USDEL SUGGESTED APPROPRIATE PAYMENT WOULD RESULT FROM APPLICATION OF G-3 TARIFF AT GROUP 4 RATE ARBITRARILY APPLIED BY AGREEMENT TO ALL US MILITARY CARGO PASSING THROUGH SPANISH PORTS. APPLICATION OF SUCH RATE WOULD PROVIDE EASY ADMINISTRATION FOR BOTH SPANISH AND US AUTHORITIES.

3. APPLICATION OF GROUP 4 RATE WOULD RESULT IN CHARGE OF 18 PERCENT OF HIGHEST (GROUP 8) RATE PRESENTLY ASSESSED TO LARGE QUANTITY OF CARGO. SAMPLING OF 606 INBOUND CONTAINERS ARRIVING OCTOBER DECEMBER 1975 BY MTMCTTU CADIZ SHOWS 80 PERCENT OF CADIZ CARGO AND 58 PERCENT ALGECIRAS CARGO FELL INTO GROUP 5 RATE OR LOWER. MUCH OF THIS CARGO NOW ASSESSED AT GROUP 8 RATE DUE TO LACK OF CARGO DESCRIPTIVE INFORMATION ON CARRIERS COMMERCIAL MANIFEST. SPANISH PORT AUTHORITIES HAVE IN THE PAST REFUSED TO CONSIDER PROFFERED MILITARY MANIFESTS WHICH DETAIL CONTAINER COMMODITIES.

4. AT REQUEST OF SPANISH DELEGATION, MEETING SET FOR MAY 20 WAS SUSPENDED TO PERMIT GOS CONSULTATION ON U.S. PROPOSAL.

5. DELEGATIONS MET AGAIN AT 9:30 A.M.M. ON MAY 21 TO CONSIDER SPANISH DECISION AND, IF AGREEABLE IN PRINCIPLE TO NEGOTIATE A FIXED RATE UNDER G-3 TARIFF SCHEDULE TO BE APPLIED TO ALL USG CARGOES. SPANISH REPS INDICATED WILLINGNESS OF MINISTRY OF PUBLIC APPLICABLE TO USG CARGOES DERIVED FROM A STATISTICAL ANALYSIS OF PORT EXPERIENCES COVERING A PERIOD OF TIME. USDEL SUBMITTED THE DATA DESCRIBED IN PAR 3 AND INDICATED THAT THE MEANS RATE (BASED ON TONNAGE) WAS IN GROUP 5. CHAIRMAN OF SPANISH DELEGATION WAS PREPARED TO ACCEPT THIS ARRANGEMENT; HOWEVER, REPS FROM PUBLIC WORKS ARGUED THAT THEIR VIEW OF THE ANALYSIS PRESENTED WOULD FALL BETWEEN GROUPS 6 AND 7. SPANISH SIDE THEN PROPOSED THAT NEGOTIATION SETTLE UPON GROUP 6 RATE, TO WHICH CHAIRMAN USDEL INDICATED THAT SETTLEMENT ABOVE GROUP 5 RATE WOULD REQUIRE WASHINGTON APPROVAL. SPANISH SIDE COUNTERED WITH PROPOSAL TO ALLOW, BY DECREE, ALL US MILITARY CARGOES TO BE DIVIDED INTO GROUPS 5 AND 6 WITH A 5.5 AVERAGE RESULT. U.S. SIDE SAYS IT WOULD COMMUNICATE THIS PROPOSAL TO LIMITED OFFICIAL USE

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WASHINGTON: HOWEVER FELT THAT THIS WOULD NOT HAVE ACHIEVED ANY CONCESSION FROM SPANISH BUT MERELY, IN EFFECT SUBJECT USG CARGOES TO THE COMPLETE APPLICATION OF G-3 TARIFF. BOTH SIDES AGREED TO CONSULT RESPECTIVE GOVTS OVER THE WEEKEND AND TO MEET AGAIN MONDAY (MAY 24) FOR FURTHER NEGOTIATION.

6. COMMENT: AS RESULT OF NEGOTIATION TODAY, SPANISH DELEGATION HAS PROPOSED THAT U.S. MILITARY CARGO BE ASSESSED AT A RATE WHICH WOULD RESULT IN PAYMENT BY U.S. OF APPROX 50 PERCENT (CARGOES DIVIDED BETWEEN GROUP 5 AND 6) OF AMOUNT WHICH WOULD BE CHARGED UNDER G-3 TARIFF AS PRESENTLY ENFORCED BY GOS. USDEL HAS PROPOSED A RATE WHICH WOULD RESULT IN PAYMENT OF APPROX 43 PERCENT (GROUP 5) OF AMOUNT WHICH WOULD BE CHARGED. WHATEVER IS AGREED WILL ALSO APPLY TO PAST UNPAID G-3 ASSESMENTS. USDEL STATED THAT UNDER NO CIRCUMSTANCE WOULD IT AGREE TO PAY PENALTIES ASSESSED ON ARREARAGES AND SPANISH READILY AGREED THAT PENALTIES WOULD BE INAPPROPRIATE WHERE THERE IS A BONA FIDE DISPUTE AS TO APPLICATION OF THE TARIFFS.

7. AT MAY 24 SESSION USDEL WILL CONTINUE TO PRESS FOR GROUP 5 RATE AND PROPOSES TO STATE THAT IT HAS BEEN INSTRUCTED TO INFORM GOS THAT USG FEELS THAT GROUP 5 REPRESENTS "REASONABLE COMPENSATION" CONSISTENT WITH ITS UNDERSTANDING UNDER 1953 TAX RELIEF AGREEMENT. IT DOES NOT SEEM REASONABLE TO BREAK OFF NEGOTIATION RATHER THAN ACCEPT GOD PROPOSAL, ASSUMING GOS UNWILLING TO AGREE TO THE GROUP 5 RATE. USDEL RECOMMENDS THAT A MESSAGE BE SENT TO USDEL SETTING FORTH STRONG US PREFERENCE FOR GROUP 5 RATE, BUT ALLOWING AUTHORITY TO SETTLE ON GOS PROPOSAL. DESPITE LACK OF LEVERAGE USDEL WILL VIGOROUSLY SEEK TO ACHIEVE SETTLEMENT AT GROUP 5 RATE LEVEL. STABLER

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